

INSURANCE CODE

TITLE 8. HEALTH INSURANCE AND OTHER HEALTH COVERAGES

SUBTITLE G. HEALTH COVERAGE AVAILABILITY

For expiration of this chapter, see Section 1510.013.

CHAPTER 1510. TEMPORARY HEALTH INSURANCE RISK POOL

Sec. 1510.001. DEFINITION. In this chapter, "pool" means a temporary health insurance risk pool that is established and administered by the commissioner under this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. 2087), Sec. 1, eff. June 12, 2017.

Sec. 1510.002. ESTABLISHMENT OF TEMPORARY HEALTH INSURANCE RISK POOL. To the extent that federal funds are available under federal law, the commissioner may:

(1) apply for such funds; and

(2) use such funds to establish and administer a temporary health insurance risk pool for the purposes of this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. 2087), Sec. 1, eff. June 12, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 662 (S.B. 1940), Sec. 1, eff. June 10, 2019.

Sec. 1510.003. PURPOSE OF POOL. (a) The exclusive purpose of the pool is to provide a temporary mechanism to assist residents of this state in obtaining access to quality, guaranteed issue health coverage at minimum cost to the public.

(b) The pool may not be used to expand the Medicaid program, including the program administered under Chapter 32, Human Resources Code, and the program administered under Chapter 533, Government Code.

(c) The pool may not be used in a manner that requires this state to assume functions currently performed by the United States Department of Health and Human Services or the United States Internal Revenue Service under the Patient Protection and

Affordable Care Act (Pub. L. No. 111-148), including establishing an exchange or administering premium tax credits.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. 2087), Sec. 1, eff. June 12, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 662 (S.B. 1940), Sec. 2, eff. June 10, 2019.

Sec. 1510.004. PROVISION OF GUARANTEED ISSUE HEALTH COVERAGE. (a) Subject to any requirements for obtaining federal funds, the commissioner may increase access to guaranteed issue health coverage by:

(1) establishing a high risk pool to provide alternative individual health insurance coverage to eligible individuals that does not diminish enrollment in traditional commercial health care coverage;

(2) providing funding to individual health benefit plan issuers that cover individuals with certain health or cost characteristics in exchange for lower enrollee premium rates; or

(3) providing a reinsurance program for health benefit plan issuers in the individual market in exchange for lower enrollee premium rates.

(b) If necessary to ensure access to quality individual health insurance coverage for individuals with preexisting conditions, the commissioner may take actions necessary to establish a temporary high risk pool substantially similar to the risk pool authorized by former Chapter 1506, Insurance Code, repealed by Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, including:

(1) appointing a board of directors to govern the temporary high risk pool;

(2) adopting rules or a plan of operation for the temporary high risk pool; and

(3) contracting with a third party.

(c) Any rule or plan of operation adopted under Subsection (b) remains in effect only until 30 days following the end of the next regular session of the legislature unless a law is enacted that

authorizes coverage to be issued by the temporary risk pool and provides for funding for coverage under the temporary risk pool.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. 2087), Sec. 1, eff. June 12, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 662 (S.B. 1940), Sec. 3, eff. June 10, 2019.

Sec. 1510.005. CONTRACTS AND AGREEMENTS. (a) The commissioner may enter into a contract or agreement that the commissioner determines is appropriate to carry out this chapter, including a contract or agreement with:

(1) a similar pool in another state for the joint performance of common administrative functions;

(2) another organization for the performance of administrative functions; or

(3) a federal agency.

(b) The commissioner may contract for stop-loss insurance for risks incurred under this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. 2087), Sec. 1, eff. June 12, 2017.

Sec. 1510.006. FUNDING. (a) The commissioner may use funds appropriated to the department to:

(1) apply for federal funding and grants; and

(2) administer this chapter.

(b) Notwithstanding Section 6(e)(2)(B), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, the commissioner may use money appropriated to the department from the healthy Texas small employer premium stabilization fund for the exclusive purposes of this chapter, other than for paying salaries and salary related benefits.

(c) Notwithstanding Section 6(e)(2)(B), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, the commissioner shall transfer money from the healthy Texas small employer premium stabilization fund to the Texas Department of Insurance operating account in an amount equal to the amount of

money appropriated to the department from that fund, as described by Subsection (b), for the direct and indirect costs of the exclusive purposes of this chapter.

(d) Except as provided by Subsections (a) and (b), the commissioner may not use any state funds to fund the pool unless the funds are specifically appropriated for that purpose.

(e) The commissioner may use federal funds to administer this chapter, as appropriate.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. 2087), Sec. 1, eff. June 12, 2017.

Sec. 1510.007. PUBLIC EDUCATION AND OUTREACH. (a) The commissioner may use funds appropriated to the department for the exclusive purposes of this chapter to develop and implement public education, outreach, and facilitated enrollment strategies under this chapter.

(b) The commissioner may contract with marketing organizations to perform or provide assistance with the strategies described by Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. 2087), Sec. 1, eff. June 12, 2017.

Sec. 1510.008. WAIVER. (a) The commissioner may apply to the United States secretary of health and human services:

(1) under 42 U.S.C. Section 18052 for a waiver of applicable provisions of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) and any applicable regulations or guidance; or

(2) under any applicable provision of federal law for a waiver of applicable provisions of any federal law, regulations, or guidance with respect to health insurance coverage consistent with Section 1510.003.

(b) The commissioner may take any action the commissioner considers appropriate to make an application under this section.

(c) The commissioner may implement a state plan that meets the requirements of a waiver granted in response to an application under Subsection (a) if the plan is:

(1) consistent with state and federal law; and

(2) approved by the United States secretary of health and human services.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. [2087](#)), Sec. 1, eff. June 12, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 662 (S.B. [1940](#)), Sec. 4, eff. June 10, 2019.

Sec. 1510.009. ADDITIONAL AUTHORITY. In addition to the powers granted to the commissioner under this chapter, the commissioner may exercise any authority that may be exercised under the law of this state by:

(1) a reinsurer; or

(2) a health benefit plan issuer authorized to write health benefit plans in this state.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. [2087](#)), Sec. 1, eff. June 12, 2017.

Sec. 1510.010. RULES. The commissioner may adopt rules necessary to implement this chapter, including rules to administer the pool and distribute money from the pool.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. [2087](#)), Sec. 1, eff. June 12, 2017.

Sec. 1510.011. EXEMPTION FROM STATE TAXES AND FEES. Notwithstanding any other law, a program created under this chapter is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. [2087](#)), Sec. 1, eff. June 12, 2017.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [874](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 1510.012. ANNUAL REPORT OF POOL ACTIVITIES.

(a) Beginning June 1, 2020, not later than June 1 of each year, the department shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(b) The report submitted under Subsection (a) must:

(1) summarize the activities conducted under this chapter in the calendar year preceding the year in which the report is submitted; and

(2) include information relating to:

(A) net written and earned premiums;

(B) plan enrollment;

(C) administration expenses; and

(D) paid and incurred losses.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. 2087), Sec. 1, eff. June 12, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 662 (S.B. 1940), Sec. 5, eff. June 10, 2019.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. 874, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 1510.013. EXPIRATION OF CHAPTER. This chapter expires August 31, 2021.

Added by Acts 2017, 85th Leg., R.S., Ch. 765 (S.B. 2087), Sec. 1, eff. June 12, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 662 (S.B. 1940), Sec. 6, eff. June 10, 2019.